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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.

No. CR 05-60008 HO
THEORY OF DEFENSE

PIROUZ SEDAGHATY,
Defendant.

Defendant, Pirouz Sedaghaty, by and through his attorneys, Federal Public Defender Steven T. Wax and Lawrence Matasar, submits the following theory of defense instruction.

Respectfully submitted on September 8, 2010.

/s/ Steven T. Wax

Steven T. Wax

/s/ Lawrence Matasar

Lawrence Matasar

Attorneys for Defendant

Defendant's Requested
Instruction No. 26

INSTRUCTION NO. _____

THEORY OF DEFENSE

Mr. Seda should be found not guilty of both counts for any one of the following reasons:

First, the government has not proved beyond a reasonable doubt that the tax return contains any material errors and it does not. Neither Line 1 (Contributions) nor line 22 (Grants and Allocations) is understated because the El Fiki donation need not have been included on the tax return. This is because Dr. El Fiki donated the \$150,000 as Zakat to Al Haramain, Riyadh, not to Al Haramain Ashland. While Line 57a (Value of Buildings) is mistakenly overstated, the mistake was made by Mr. Wilcox and is not material as I have defined that term for you.

Second, even if the tax return contained material errors, the errors are not willful because they were made by Mr. Wilcox not Mr. Seda.

Third, there is no evidence that the El Fiki donation of \$150,000, or any portion thereof, was ever given to the Chechen Mujahideen. Rather, Mr. Seda transferred the donation to Al Haramain Saudi, through Mr. Al Buthe, to be provided to Chechen refugees as intended by Dr. El Fiki

Fourth, the government has failed to prove beyond a reasonable doubt that Mr. Seda intended to give the El Fiki donation, or any portion thereof, to the Chechen Mujahideen. Rather, the evidence shows that Mr. Seda intended that the El Fiki donation be used to provide humanitarian relief to the Chechen refugees and other victims of the Chechen war with Russia, just as Dr. El Fiki had intended.

Fifth, Mr. Seda did not travel with Mr. Al Buthe to Saudi Arabia and had no knowledge that Mr. Al Buthe did not submit a monetary instruments reporting form or that it was necessary for him to do so.

Sixth, the government has not proven beyond a reasonable doubt that Mr. Seda and Mr. Al Buthe had an agreement to defraud the United States in order to hide the disposition of Dr. El Fiki's donation. Rather, because Mr. Seda intended

to use the El Fiki money for humanitarian aid, he had nothing to conceal on his income tax return.

If the evidence does not convince you beyond a reasonable doubt that: 1. Lines 1, 22, or 57a reflect materially erroneous information; 2. the errors were based on false information that Mr. Seda knowingly and willfully provided to his accountant, Mr. Wilcox; 3. the errors were material as I have defined that term; and 4. Mr. Seda acted pursuant to an agreement with Mr. Al Buthe to send money to the Chechen mujahideen and to hide from the United States government the fact that the money was intended to go to the Chechen mujahideen, then Mr. Seda is entitled to a finding of not guilty on both counts.